

Superior Court Standing Order 1–22

Videoconferencing of Court Events

Applicable to All Courts

1. Introduction

This Standing Order is effective September 1, 2022, and rescinds and supersedes Superior Court Standing Order 1–20, which became effective February 1, 2020, and Superior Court Standing Order 4–21, which became effective July 12, 2021. This Standing Order shall remain in effect until further order of the court.

Consistent with constitutional, statutory, and other applicable rights, and in the interest of justice, certain criminal and civil proceedings may be conducted by videoconference pursuant to this Standing Order.

2. Criminal Cases

A. Presumptive Videoconference Hearings

Hearings in criminal cases are presumptively held by videoconference for:

- bail hearings for persons in custody who waive physical presence in the courtroom;
- bail reviews and non-testimonial hearings for reviews of G.L. c. 276, § 58A dangerousness determinations for persons in custody;
- hearings on G.L. c. 276, § 58A motions without witnesses;
- status and scheduling conferences;
- discovery conferences, including hearings on non-evidentiary motions (where a hearing is warranted, and defendant waives physical presence);
- pretrial conferences; and
- probation status conferences.

B. Presumptive In-Person Hearings

Hearings in criminal cases are presumptively held in person for:

- initial bail hearings for persons not in custody;
- 58A dangerousness hearings with witnesses;
- motions to dismiss and suppress;
- plea conferences and plea hearings pursuant to Mass. R. Crim. P. 12;
- *Daubert-Lanigan* hearings;
- final trial conferences, including motions *in limine*;
- trials;
- sentencing hearings; and
- initial and final probation violation hearings.

C. Arraignments

There is no presumptive method for conducting an arraignment. Judges are encouraged to conduct arraignments by videoconference where the defendant is in custody and waives physical presence, absent reasons for the defendant and counsel to be physically present.

D. Conversion of Presumptive In-Person Hearings to Videoconference Hearings in Criminal Cases

A criminal hearing designated as presumptively in person pursuant to this Standing Order may be held by videoconference in a judge's discretion, consistent with constitutional, statutory, and other applicable rights. A judge should consider the nature of the proceeding, including whether it is testimonial, evidentiary, or requires a credibility determination; any agreement of the parties; and waiver of any right to physical presence.

3. Civil Cases

A. Presumptive Videoconference Hearings

Hearings in civil cases are presumptively held by videoconference for:

- initial case management conferences;
- discovery disputes, motions to compel, motions for protective order (if hearing warranted);
- scheduling conferences;
- final pretrial conferences;
- motions to dismiss;
- motions to amend complaint (if hearing warranted);
- motions for default judgment/assessment of damages; and
- motions to set aside default (if hearing warranted).

Medical malpractice tribunals are presumptively held by videoconference.

B. Presumptive In-Person Hearings

Hearings in civil cases are presumptively held in person for:

- injunction hearings, including *ex parte* motions for injunctions;
- hearings on equitable motions, including motions for attachment, trustee process, reach and apply;
- proceedings involving credibility determinations;
- motions for summary judgment;
- *Daubert-Lanigan* hearings;
- final trial conferences, including motions *in limine*; and
- trials.

C. Conversion of Presumptive In-Person Hearings to Videoconference Hearings in Civil Cases

A civil hearing designated as presumptively in person pursuant to this Standing Order may be held by videoconference in a judge's discretion and for good cause.

4. Conversion of Presumptive Videoconference Hearing to In-Person Hearing

A judge may order that a criminal or civil hearing designated as presumptively held by videoconference pursuant to this Standing Order be held in person if the judge determines that such a hearing is necessary for fair and efficient resolution of a matter.

5. Hybrid Proceedings

A "hybrid" proceeding, where some participants appear in person and others appear by videoconference, may be held on request and in the discretion of the court, and consistent with constitutional, statutory, and other applicable rights. Any participant who requests to appear by videoconference at an in-person proceeding shall have no grounds to object to any other participant appearing in person.

6. Self-Represented Litigants

For any videoconference hearing involving a self-represented litigant with limited access to, or limited facility with, videoconference technology, the court shall facilitate participation by videoconference or shall offer an alternative means of participation.

7. Public Access

Information on public access to virtual proceedings shall be available from the Superior Court Clerks' Offices.

So ordered,

/s/ Heidi Brieger

Heidi E. Brieger
Chief Justice of the Superior Court

Adopted: August 12, 2022

Effective: September 1, 2022